

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA
EASTERN DIVISION

EASTERN IOWA PLASTICS, INC.,)
Plaintiff,) No. 12 cv 2088 EJM
vs.)
PI, INC.,) ORDER
Defendant.)

This matter is before the court on defendant's resisted objections to the Magistrate Judge's Order denying its motion to amend its Answer, filed July 22, 2014. Remanded.

This case involves contested ownership of the trademark PAKSTER, and counter claims of infringement. Jurisdiction is under 28 U.S.C. §1331.

Defendant objects to the June 24, 2014 Order denying its motion to amend its Answer and the Scheduling Order to include the additional defenses of laches, acquiescence and the statute of limitations pursuant to F.R.Civ.P. 72 and Local Rule 72. The standard of review is whether the Order was clearly erroneous or contrary to law. F.R.Civ.P. 72(a).

Defendant argued before the Magistrate Judge only that the change in counsel constituted good cause under F.R.Civ.P. 16 to amend its Answer after the deadline of the Scheduling Order had expired. That ruling was neither clearly erroneous nor contrary to law. *Sherman v. Winco Fireworks, Inc.*, 532 F.3d 709 (8th Cir. 2008).

Here, defendant makes the new argument and allegation that at the time of the expiration of the deadline in the Scheduling Order for amending pleadings, August 1, 2013, it was unaware that plaintiff was seeking damages for the period before defendant

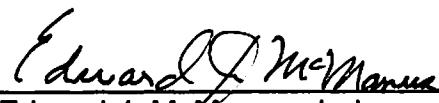
first filed for trademark registration in 2007. This claim was never made before the magistrate judge. No prejudice appears to result from this matter being remanded for further consideration. F.R.Civ.P. 72(c).

It is therefore

ORDERED

Remanded to the magistrate judge.

August 14, 2014


Edward J. McManus, Judge
UNITED STATES DISTRICT COURT